

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BRIAN S. JOHNSON,

Plaintiff,

Case No. 12-15593

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 15)**  
**AND**  
**GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (Doc. 10)**  
**AND**  
**DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Doc. 13)**  
**AND**  
**REMANDING MATTER FOR FURTHER ADMINISTRATIVE PROCEEDINGS**

I.

This is a Social Security case. Plaintiff Brian S. Johnson appeals from the final determination of the Commissioner of Social Security (Commissioner) that he is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. Plaintiff's motion requested only that the matter be remanded for further proceedings.

The magistrate judge issued a report and recommendation (MJRR), recommending that plaintiff's motion be granted and the Commissioner's motion be denied. Specifically, the magistrate judge recommends that the matter be remanded

under sentence four<sup>1</sup> to the Administrative Law Judge (ALJ). The magistrate judge finds a remand appropriate so that the ALJ may address records relating to plaintiff's mental-health symptoms that were not discussed and explain how the ALJ resolved inconsistencies in the records in arriving at the conclusion that plaintiff was not disabled. See MJRR at p. 25-26

## II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985).

However, the Court has reviewed the MJRR and agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for summary judgment is GRANTED IN PART AND DENIED IN PART. The Commissioner's motion for summary judgment is DENIED.

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<sup>1</sup> "A district court's authority to remand a case for further administrative proceedings is found in 42 U.S.C. § 405(g)." Hollon v. Commissioner, 447 F.3d 477, 482-83 (6th Cir. 2006). The statute permits only two types of remand: a sentence four (post-judgment) remand made in connection with a judgment affirming, modifying, or reversing the Commissioner's decision; and a sentence six (pre-judgment) remand where the court makes no substantive ruling as to the correctness of the Commissioner's decision. Hollon, 447 F.3d at 486 (citing Melkonyan v. Sullivan, 501 U.S. 89, 99-100, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991)).

This matter is REMANDED for further administrative proceedings consistent with the MJRR.

SO ORDERED.

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: March 25, 2014

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, March 25, 2014, by electronic and/or ordinary mail.

S/Sakne Chami  
Case Manager, (313) 234-5160